

REMARKS

The Examiner contends that nowhere does Lanzendorfer mention that emulsifiers need to be present, and points to Examples 1-10 and 16-27.

The Examiner is absolutely incorrect!

First of all, please note that not all of Lanzendorfer's (US 5,952,373) preparations are emulsions...emulsions are only one of many forms that the Lanzendorfer compositions may be prepared in (col. 18, line 65 – col. 19, line 4).

Secondly, at col. 18, paragraph beginning at line 65, Lanzendorfer teaches that:

*"The cosmetic and dermatological formulations according to the invention can be in various forms. They can thus be, for example, a solution, an emulsion of the water-in-oil (w/o) type or of the oil-in-water (o/w) type, or a multiple emulsion, for example of the water-in-oil-in-water (w/o/w) or oil-in-water-in-oil (o/w/o), a gel, a solid stick or also an aerosol. They are prepared in a manner known per se."*

Those skilled in the art would realize that an emulsion "prepared in a manner known per se" would be prepared with an emulsifier.

To this end, at col 19, line 52, Lanzendorfer teaches that the emulsions of the invention use an emulsifier.

Thirdly, and more important, of the examples pointed to by the Examiner, Examples 1-3 are not emulsions. Of those Examples that are said to be emulsions, the Examiner should note that:

Examples 4, 5, 6, 7 and 9 include an emulsifier (Cetareth and Cetearyl Alcohol)

Example 8 includes an emulsifier (Cremophor A 25)

Example 10 includes an emulsifier (Arlacel 481)

Example 16 uses an emulsifier (Emulgade F)

Example 17 uses an emulsifier Lanette O

Example 18 is under the heading "Ionic O/W Emulsion", whereas applicants' claims pertain to water in oil emulsions

Example 19 is said to be a gel i.e. not an emulsion

Example 20 is said to be a Hydrogel i.e., not an emulsion

Example 21 uses an emulsifier (Brij 72)

Example 22 uses an emulsifier (Cetylstearyl Alcohol, Arlacel 165)

Example 23 uses an emulsifier (Arlacel 989, 481)

Example 24 uses an emulsifier (Arlacel 481)

Example 25 uses an emulsifier (Arlacel 481)

Example 26 is a hair rinse and includes a surfactant. Those skilled in the art would see that this emulsion is almost certainly stabilized by the surfactant

Example 27 is a capsule, not an emulsion.

The Miska reference (US 5,939,954), at col. 4, lines 40 – 42, teaches that:

*The emulsifiers are those commonly used in this type of emulsion.*

Miska refers again to emulsifiers at col. 5, line 19/20.

All of the Examples of the Miska reference include one or more of the following emulsifiers:

Example 1 uses an emulsifier (Glycerol Monostearate, Monomuls 90L12)

Example 2 uses an emulsifier (Abil WE 09)

Example 3 uses an emulsifier (Hosteracin W/O, Antaron WP 660)

Example 4 uses an emulsifier (Monomuls 90L12, Glycerol Monostearate)

Example 5 uses an emulsifier (Abil EM 90, Abil Wax 9801)

Example 6 uses an emulsifier (Isolan GI 34)

Example 7 uses an emulsifier (Q2 5200)

Example 8 uses an emulsifier (Abil WE 09)

Example 9 uses an emulsifier (Glycerol Monostearate)

Example 10 uses an emulsifier (Abil WE 09)

Applicants' emulsions are stabilized by modified phylosilicates, which exhibit both hydrophilic and lipophilic properties (i.e. are AMPHIPHILIC).

Nowhere does either reference teach or disclose anything at all about amphiphilic phylosilicates or their ability to stabilize an emulsion.

Finally, there does not seem to be any legitimate reason for not entering Applicants' amendments. The amendments do not change the scope or meaning of the claims at all; all the amendments do is correct the grammar of the claims, and therefore do reduce the issues on appeal by obviating grammatical errors.

Reconsideration and favorable action is respectfully requested.

CONDITIONAL PETITION FOR EXTENSION OF TIME


If any extension of time for this response is required, Applicants request that this

be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit Account No. 14-1263.

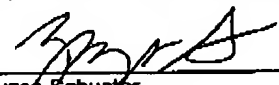
Respectfully submitted,  
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By   
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Date November 14, 2005